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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
VO, TED T	

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/686,628	HINKER, PAUL J.	
	Examiner	Art Unit	
	Ted T. Vo	2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/18/05, 1/27/04, 1/20/04, 10/15/03, 8/15/05, 7/15/02, 5/29/02.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on 02/06/2004.

Claims 1-16 are pending in the application.

Response to Arguments

2. Applicants' arguments in the Remarks section with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 5, 13-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being respectively unpatentable over claims 1-4 of U. S. Patent No. 6,802,057 B1 (hereinafter: #6,802,057). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

As per claim 1:

Claim 1 recites the limitations which are not patentably distinct over the Claims 3-4 (#6,802,057) (See Claim 1 limitation of this application and recitations in Claims 3-4 (#6,802,057): where 32-bit covers Fortran 77 code and 64-bit covers Fortran 90 code which are recited in the patent).

As per claim 5:

Claim 5 is a system claim, where the system's performance is corresponding to the steps recited in the method Claim 1. The Claim 5 is Double Patenting based on the system and method incorporating.

As per claims 13-16:

Claims 13-16 recite the limitations are not patentably distinct over the steps in Claims 1-2 (#6,802,057), or the steps in Claims 3-4 (#6,802,057).

(See Claim 13 limitation of this application and recitations in Claims 1-4 (#6,802,057)).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claim 1-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Coutant, "64-Bit Application Development for PA-RISC & IA-64", 3-2000.

- Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: Coutant discloses,

A method in a data processing system containing source code with a subprogram having at least one of an integer and logical parameter, the method comprising the steps of:

creating an interface file for the subprogram in the source code; storing in the interface file a definition of the subprogram; (See 64-bit programming model in p. 3-4)

adding to the interface file a comment for at least one of the integer and logical parameters, the comment indicating the parameter passing at least one of semantics and extent of the dimension along each of the dimensions of a non-scalar parameter (See 64-bit programming model in p. 3-4; See p. 11, 'linkage table'); *and*

reading the interface file to generate a stub routine that converts at least one of the integer and logical parameters from 32-bit to 64-bit and that invokes the subprogram by specifying the converted parameters (See p.5-6).

As per Claim 2: Coutant discloses, *The method of claim 1, wherein the source code is 32-bit code and wherein the method further includes the step of invoking the 64-bit code from 32-bit code* (See p.5-6).

As per Claim 3: Coutant discloses, *A method in a data processing system, comprising the steps of:*

receiving 32-bit source code; and

automatically generating a 32-bit to 64-bit conversion stub that is used by the 32-bit source code to invoke 64 bit code (See p.5-6).

As per Claim 4: Coutant discloses,

The method of claim 3, wherein the 32-bit source code has a subprogram with an integer or logical parameter and wherein the automatically generating step further includes the steps of:

creating an interface for the subprogram;

inserting a code-generator statement into the interface describing a characteristic of the parameter; and

using the interface to create a stub for use as a 32-bit to 64-bit converter.

(See p. 3-4 and p.5-6).

As per Claim 5: Coutant discloses,

A data processing system, comprising:

a storage device, comprising:

source code with a subprogram having at least one of an integer and logical parameter;

an interface generator that reads the subprogram and that generates an interface file with indications of characteristics of the parameter; and

a stub generator that reads the interface file and that generates a stub for the subprogram by using the characteristics (p. 3-4, where the 'type' is identified as characteristics for the developing of 32-bit code and 64-bit code in conversing/porting), *wherein each of the stubs receives a set of parameter values* (p. 3-4: i.e., expression in ILP32), *generates the values for the required parameters from the received set of parameter values, and invokes the subprogram with the values for the parameters; and*

a processor for running the interface generator and the stub generator (Whole claim is referred to p. 3-4 and p.5-6, as addressed in Claim 1 because Claim 5 is the system, typically a computer, that performs the step of Claim 1).

As per Claim 6: Coutant discloses,

The data processing system of claim 5, wherein the source code contains comments indicating the characteristics of the parameter (comments are part of instructions/code used in major programming languages).

As per Claim 7: Coutant discloses,

The data processing system of claim 6, wherein the characteristics include an indication of a conditional value for at least one of the required parameters (It should be noted that *conditional value for at least one of the required parameters* is mere instruction/code used in major programming languages. Further see p. 3-4, refer to 'type' and see the 'stub' and using programming instructions).

As per Claim 8: Coutant discloses, *The data processing system of claim 6, wherein the characteristics include an indication of whether at least one of the required parameters is used to contain a return value.* (It should be noted that *an indication of whether at least one of the required parameters is used to contain a return value* is mere syntax of instruction/code used in major programming languages. Further see p. 3-4, refer to 'type' and see the 'stub' and using programming instructions).

As per Claim 9: Coutant discloses, *The data processing system of claim 6, wherein the characteristics include a directionality of at least one of the required parameters* (It should be noted that *a directionality*

of at least one of the required parameters is mere syntax of instruction/code used in major programming languages. Further see p. 3-4, refer to 'type' and see the 'stub' and using programming instructions)

As per Claim 10: Coutant discloses, *The data processing system of claim 6, wherein the characteristics include an indication of whether at least one of the required parameters required a multidimensional variable* (It should be noted that *an indication of whether at least one of the required parameters required a multidimensional variable* is mere syntax of instruction/code used in major programming languages. Further see p. 3-4, refer to 'type' and see the 'stub' and using programming instructions; i.e. array etc.)

As per Claim 11: Coutant discloses, *The data processing system of claim 6, wherein the characteristics include an indication of whether a size of at least one of the required parameters is based on another one of the required parameters* (It should be noted that *an indication of whether a size of at least one of the required parameters is based on another one of the required parameters* is mere syntax of instruction/code used in major programming languages. Further see p. 3-4, refer to 'type' and see the 'stub' and using programming instructions).

As per Claim 12: Coutant discloses, *The data processing system of claim 6, wherein the characteristics include an indication of whether at least one of the required parameters is a work space parameter* (It should be noted that *an indication of whether at least one of the required parameters is a work space parameter* is mere syntax of instruction/code used in major programming languages. Further see p. 3-4, refer to 'type' and see the 'stub' and using programming instructions).

As per Claim 13: Coutant discloses, *A computer-readable medium containing instructions for controlling a data processing system to perform a method comprising the steps of:*

receiving 32-bit source code; and

automatically generating a 32-bit interface to the 64-bit source code (See p. 5-6).

As per Claim 14: Coutant discloses, *The computer-readable medium of claim 13, wherein the 32-bit source code has a subprogram with a parameter and wherein the automatically generating step further includes the steps of:*

creating an interface for the subprogram;

inserting a code-generator statement into the interface describing a characteristic the parameter; and

using the interface to create a stub for use as the 64-bit interface.

(See p.3-4, *interface for the subprogram;* See p.5-6, *create a stub for use as the 64-bit interface*).

As per Claim 15: Coutant discloses, *A computer-readable medium containing instructions for controlling a data processing system to perform a method, the data processing system having source code with a subprogram having a parameter, the method comprising the steps of:*

reading the source code; and

generating a stub routine that invokes the subprogram and that facilitates use of at least one of a converted integer and logical parameter. (See p. 5-6).

As per Claim 16: Coutant discloses, *A data processing system comprising:*

means for receiving 32-bit source code; and

means for automatically generating a 32-bit to 64-bit stub to the 32-bit source code. (See p.3-4, and p. 5-6).

7. Claim 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Microsoft, "Microsoft Interface Definition Language (MIDL): 64-Bit Porting Guide" 8-1999.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 13: Microsoft discloses, Microsoft discloses an interface definition that performs porting 32-bit into 64-bit that covers the limitation:

A computer-readable medium containing instructions for controlling a data processing system to perform a method comprising the steps of:

receiving 32-bit source code; and

automatically generating a 32-bit interface to the 64-bit source code.

See Microsoft, p. 12-15 for above limitation.

As per Claims 14-16:

The functionality of each of independent Claims 14-16 corresponds to functionality of Claim 13. Claims 14-16 have the same rejection as set forth in Claims 13 in regard to the teaching of Microsoft.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3694.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number, **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ted T. Vo
Primary Examiner
Art Unit 2192
July 22, 2005